

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

IN RE:)	CHAPTER 7 PROCEEDING
)	
TSVETELINA MIHAYLOVA,)	CASE NO. 17 B 27656
)	
DEBTOR.)	HON. CAROL A. DOYLE

NOTICE OF MOTION

PLEASE TAKE NOTICE that on **February 21, 2018, at 10:00 a.m.**, I shall appear before the Honorable Carol A. Doyle, Bankruptcy Judge, in Courtroom 742, Everett McKinley Dirksen Federal Courthouse, 219 South Dearborn Street, Chicago, Illinois, or before any other Bankruptcy Judge who may be sitting in her place and shall present the **MOTION OF UNITED STATES TRUSTEE TO APPROVE WAIVER OF DISCHARGE**, a copy of which is attached and served on you.

/s/ Kimberly Bacher
Kimberly Bacher
OFFICE OF THE U.S. TRUSTEE
219 South Dearborn Street, Room 873
Chicago, Illinois 60604
(312) 353-5014

CERTIFICATE OF SERVICE

I, Kimberly Bacher, an attorney, state that on February 12, 2018 pursuant to Local Rule 9013-1(D) the above **NOTICE OF MOTION** and the appended **MOTION OF UNITED STATES TRUSTEE TO APPROVE WAIVER OF DISCHARGE** were filed and served on all parties identified as Registrants on the service list below through the Court's Electronic Notice for Registrants and, as to all other parties on the service list below, I caused a copy to be sent via First Class Mail to the address(es) indicated.

/s/ Kimberly Bacher

SERVICE LIST

Registrants Served Through the Court's Electronic Notice for Registrants

Kimberly Bacher: Kimberly.Bacher@usdoj.gov, kimberlyabacher@hotmail.com
Patrick S. Layng: USTPRegion11.ES.ECF@usdoj.gov
David P. Leibowitz: dleibowitz@lakelaw.com, il64@ecfbis.com; ECF@lakelaw.com;
dl@trustesolutions.com; dl@trustesolutions.net
Iana Trifonova: trifonovalaw@yahoo.com

Parties Served via First Class Mail:

Tsvetelina Mihaylova
1115 N. Greenfield Lane
Mount Prospect, IL 60056

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MOTION OF UNITED STATES TRUSTEE TO APPROVE WAIVER OF DISCHARGE

Patrick S. Layng, the United States Trustee for the Northern District of Illinois (the “U.S. Trustee”), by and through his attorney, Kimberly Bacher, hereby requests that the Court, pursuant to 11 U.S.C. § 727(a)(10), approves the waiver of discharge executed by Tsvetelina Mihaylova (the “Debtor”). In support of his Motion, the U.S. Trustee respectfully states as follows:

JURISDICTION

1. This Court has jurisdiction to hear and determine this motion pursuant to 28 U.S.C. § 157(b)(2)(J) and IOP 15(a) and Local Rule 40.3.1 of the United States District Court for the Northern District of Illinois.

2. Movant is the U.S. Trustee for the Northern District of Illinois and is charged with supervising the administration of bankruptcy cases under 28 U.S.C. § 586(a). The U.S. Trustee makes this request pursuant to the authority granted to him under 11 U.S.C. § 727(c)(1) and Fed. R. Bankr. P. 4004(c).

BACKGROUND

3. On September 15, 2017, the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code.

4. The Debtor is represented by her attorney, Iana Trifonova (“Ms. Trifonova”) of Trifonova Law, PC.

5. The Debtor has primarily consumer debt. Schedule E/F reflects \$196,967 in unsecured nonpriority claims.

6. On December 22, 2017, the U.S. Trustee issued a subpoena to the Debtor requiring the production of certain financial documents by January 22, 2018.

7. The Debtor provided some, but not all, of the requested documents.

8. On February 6, 2018, counsel for the Debtor informed counsel for the U.S. Trustee that the Debtor intended to waive her discharge in this case. On February 8, 2018, the Debtor executed the waiver.

9. A true and correct copy of Tsvetelina Mihaylova's waiver is attached hereto as **Exhibit A**.

LEGAL ARGUMENT

10. The Bankruptcy Code provides a debtor with a discharge from liability on his/her debts unless the debtor obtains approval by the court of a written waiver of discharge. Section 727(a)(10) states: "[t]he court shall grant the debtor a discharge, unless -...(10) the court approves a written waiver of discharge executed by the debtor after the order for relief under this chapter [.]". 11 U.S.C. § 727(a)(10); *In re Asbury*, 423 B.R. 525, 528 (B.A.P. 8th Cir. 2010).

11. In the case *In re Eliscu*, 163 B.R. 335, 340 (Bankr. N.D. Ill. 1994), the court stated that "[p]ractice dictates that a court should determine that the debtor seeking approval of the waiver is aware of the consequences of the actions and that the debtor's decision to waive the discharge is voluntary." Courts have held that the Bankruptcy Code imposes four requirements for an effective discharge waiver: "(1) the waiver must be in writing; (2) it must be signed by the debtor; (3) it must be filed post-petition; and (4) it must be approved by the court." *In re Asbury*,

423 B.R. 525, 528 (B.A.P. 8th Cir. 2010) (citing *In re Eliscu*, 163 B.R. 335, 340 (Bankr. N.D. Ill. 1994); *Cheripka v. Republic Ins. Co. (In re Cheripka)*, 122 B.R. 33, 37 (Bankr. W.D. Pa. 1990)).

12. Based on the executed waiver, the Debtor is aware of the consequences of her waiver and the decision to waive the discharge is voluntary. At all times, the Debtor was represented by counsel. After thoroughly consulting with her lawyer, the Debtor decided to execute the voluntary waiver of discharge attached hereto as Exhibit A.

WHEREFORE, the U.S. Trustee respectfully requests that this Court enter an order approving Tsvetelina Mihaylova's waiver of discharge under 11 U.S.C. § 727(a)(10) and for any further relief that this Court deems just and equitable.

RESPECTFULLY SUBMITTED:

PATRICK S. LAYNG
UNITED STATES TRUSTEE

DATED: February 12, 2018

By: /s/ Kimberly Bacher
Kimberly Bacher
OFFICE OF THE U.S. TRUSTEE
219 South Dearborn Street, Room 873
Chicago, Illinois 60604
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